

AMENDED IN ASSEMBLY APRIL 20, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 481

Introduced by Assembly Member Calderon

February 16, 2005

An act to amend Sections 7507.9 and 7507.12 of the Business and Professions Code, relating to collateral recovery.

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as amended, Calderon. Repossessors.

(1) The Collateral Recovery Act provides for the licensing and regulation of repossession agencies by the Department of Consumer Affairs. Existing law sets forth a procedure for the removal, inventory, and storage of personal effects from repossessed collateral, and authorizes the debtor to waive the preparation of the inventory or the disclosure of the contents of the inventory under certain conditions. Existing law provides that a violation of the Collateral Recovery Act is a crime.

This bill would provide that a reposessor has no obligation to determine whether an accessory piece of equipment or a replacement part is a personal effect, or to determine who owns a personal effect. The bill would also authorize the party in possession of the collateral at the time of repossession to waive the preparation of the inventory or the disclosure of the inventory under the same conditions as the debtor.

(2) Existing law, with respect to collateral subject to registration under the Vehicle Code, provides that a repossession occurs when the reposessor gains entry to the collateral or when the collateral becomes attached to a tow truck or vehicle.

This bill would also ~~provide that the act of repossession is complete under those circumstances when the reposessor immobilizes the collateral. The bill would~~ prohibit any person from interfering with a reposessor in the lawful performance of his or her duties *once the repossession is complete*, thereby creating a new crime and imposing a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7507.9 of the Business and Professions
2 Code is amended to read:
3 7507.9. Personal effects shall be removed from the collateral.
4 A complete and accurate inventory of the personal effects shall
5 be made, and the personal effects shall be labeled and stored by
6 the licensee for a minimum of 60 days in a secure manner, except
7 those personal effects removed by or in the presence of the
8 debtor or the party in possession of the collateral at the time of
9 the repossession. A reposessor shall have no obligation to
10 determine whether an accessory, a piece of equipment, or a
11 replacement part is a personal effect. A reposessor shall have no
12 obligation to determine who owns any personal effect.
13 (a) The date and time the inventory is made shall be indicated.
14 The permanent records of the licensee shall indicate the name of
15 the employee or registrant who performed the inventory.
16 (b) The following items of personal effects are items
17 determined to present a danger or health hazard when recovered
18 by the licensee and shall be disposed of in the following manner:
19 (1) Deadly weapons and dangerous drugs shall be turned over
20 to any law enforcement agency for retention. These items shall
21 be entered on the inventory and a notation shall be made as to the
22 date and the time and the place the deadly weapon or dangerous
23 drug was turned over to the law enforcement agency, and a

1 receipt from the law enforcement agency shall be maintained in
2 the records of the repossession agency.

3 (2) Combustibles shall be inventoried and noted as “disposed
4 of, dangerous combustible,” and the item shall be disposed of in
5 a reasonable and safe manner.

6 (3) Food and other health hazard items shall be inventoried
7 and noted as “disposed of, health hazard,” and disposed of in a
8 reasonable and safe manner.

9 (c) Personal effects may be disposed of after being held for at
10 least 60 days. The inventory, and adequate information as to
11 how, when, and to whom the personal effects were disposed of,
12 shall be filed in the permanent records of the licensee.

13 (d) The inventory shall include the name, address, business
14 hours, and telephone number of the repossession agency to
15 contact for recovering the personal effects and an itemization of
16 all personal effects removal and storage charges that will be
17 made by the repossession agency. The inventory shall also
18 include the following statement: “Please be advised that the
19 property listed on this inventory will be disposed of by the
20 repossession agency after being held for 60 days from the date of
21 this notice IF UNCLAIMED.”

22 (e) The inventory shall be provided to a debtor not later than
23 48 hours after the recovery of the collateral, except that if:

24 (1) The 48-hour period encompasses a Saturday, Sunday, or
25 postal holiday, the inventory shall be provided no later than 72
26 hours after the recovery of the collateral.

27 (2) The 48-hour period encompasses a Saturday or Sunday and
28 a postal holiday, the inventory shall be provided no later than 96
29 hours after the recovery of the collateral.

30 (3) Inventory resulting from repossession of a yacht, motor
31 home, or travel trailer is such that it shall take at least four hours
32 to inventory, then the inventory shall be provided no later than 96
33 hours after the recovery of the collateral. When the 96-hour
34 period encompasses a Saturday, Sunday, or postal holiday, the
35 inventory shall be provided no later than 120 hours after the
36 recovery of the collateral.

37 (f) Environmental, Olympic, special interest, or other license
38 plates issued pursuant to Article 8 (commencing with Section
39 5000), Article 8.4 (commencing with Section 5060) or Article
40 8.5 (commencing with Section 5100) of Chapter 1 of Division 3

1 of the Vehicle Code that remain the personal effects of the debtor
2 shall be removed from the collateral and inventoried pursuant to
3 this section. If the plates are not claimed by the debtor within 60
4 days, they shall be effectively destroyed and the licensee shall,
5 within 30 days thereafter, notify the Department of Motor
6 Vehicles of their effective destruction on a form promulgated by
7 the chief that has been approved as to form by the Director of the
8 Department of Motor Vehicles.

9 (g) The notice may be given by regular mail addressed to the
10 last known address of the debtor or by personal service at the
11 option of the repossession agency.

12 (h) The debtor or the party in possession of the collateral at the
13 time of repossession may waive the preparation and presentation
14 of an inventory if the debtor or the party in possession of the
15 collateral at the time of repossession redeems the personal effects
16 or other personal property not covered by a security interest
17 within the time period for the notices required by this section and
18 signs a statement that he or she has received all the property.

19 (i) If personal effects or other personal property not covered
20 by a security agreement are to be released to someone other than
21 the debtor, the repossession agency may request written
22 authorization to do so from either the debtor or the legal owner.

23 (j) The inventory shall be a confidential document. A licensee
24 shall only disclose the contents of the inventory under the
25 following circumstances:

26 (1) In response to the order of a court having jurisdiction to
27 issue the order.

28 (2) In compliance with a lawful subpoena issued by a court of
29 competent jurisdiction.

30 (3) When the debtor or party in possession of the collateral at
31 the time of the repossession has consented in writing to the
32 release and the written consent is signed and dated by the debtor
33 or the party in possession of the collateral at the time of the
34 repossession subsequent to the repossession and states the entity
35 or entities to whom the contents of the inventory may be
36 disclosed.

37 SEC. 2. Section 7507.12 of the Business and Professions
38 Code is amended to read:

39 7507.12. With regard to collateral subject to registration
40 under the Vehicle Code, the act of repossession is complete when

1 the reposessor gains entry to the collateral, ~~when the reposessor~~
2 ~~immobilizes the collateral~~, or when the collateral becomes
3 connected to a tow truck or the reposessor's tow vehicle as those
4 terms are defined in Section 615 of the Vehicle Code. No person
5 shall interfere with a reposessor in the lawful performance of his
6 or her duties once the ~~reposessor has identified himself or~~
7 ~~herself by displaying his or her license, certificate, or registration~~
8 ~~issued pursuant to this chapter.~~ *repossession is complete.*

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the
14 penalty for a crime or infraction, within the meaning of Section
15 17556 of the Government Code, or changes the definition of a
16 crime within the meaning of Section 6 of Article XIII B of the
17 California Constitution.